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evidence. *Chicago, Burlington, etc. R. R. Co. v. Schaeffer*, 26 Ill. App. 280; *Otowa v. Graham*, 35 Ill. 346; *G. & S. E. R. R. Co. v. Hoslam*, 73 Ill. 494; *C. & St. L. R. R. Co. v. Woosley*, 85 Ill. 370. The third line of decisions is in agreement with the instant case, holding that the yield of an uninjured part of the field destroyed, or the yield of neighboring fields produced under approximately similar conditions, may be made the basis of proof of loss. *Gulf, Colorado & Santa Fe Ry. Co. v. McGowon*, 73 Tex. 355, 11 S. W. 336; *Ethridge v. San Antonio etc. Ry. Co.* (Tex. Civil App.), 39 S. W. 204; *Adams v. Stadler*, 78 Ill. App. 432; *Teller v. Bay & River Dredging Company*, 151 Cal. 209, 90 Pac. 942, 12 L. R. A. N. S. 267, 12 Ann. Cas. 779; *Shoemaker v. Acker*, 116 Cal. 239, 48 Pac. 62. JONES, EVIDENCE, § 384; *International Agricultural Corporation v. Abercrombie*, 184 Ala. 244, 63 So. 549, and note in 49 L. R. A. N. S. 415; *Barry v. Farmers Mutual Hail Ins. Co.*, 110 Ia. 433, 81 N. W. 690; *Condon v. Des Moines Mutual Hail Ins. Assn.*, 120 Ia. 80, 94 N. W. 477.

EVIDENCE—WIFE AS WITNESS AGAINST HUSBAND IN PROSECUTION FOR INCEST.—Defendant was prosecuted for incest and his wife was allowed to testify against him over his objection. The Iowa Statute (§ 4606) provided that "neither the husband nor wife shall in any case be a witness against the other, except in a criminal prosecution for a crime committed one against the other. * * *" *Held*, that a wife is a competent witness against her husband in a prosecution for incest, as incest committed by the husband is a crime committed against the wife, and hence is within the exception to the statutory prohibition. *State v. Schultz* (Iowa 1916), 158 N. W. 539.

The court cites one case which sustains its ruling—*State v. Chambers*, 87 Iowa 1, 53 N. W. 1090, 43 Am. St. Rep. 349, which seems to be the only case thus decided on this exact point. The Iowa court has also held that adultery and bigamy are crimes against the innocent spouse making such spouse competent as a witness. *State v. Bennett*, 31 Iowa 24; *State v. Sloan*, 55 Iowa 217. The weight of authority is, however, against the Iowa cases: as to incest (*State v. Burt*, 17 S. D. 7, 94 N. W. 409, 62 L. R. A. 172, 106 Am. St. Rep. 759; *Compton v. State*, 13 Tex. Ct. App. 271, 44 Am. Rep. 703); as to adultery (*State v. Vollander*, 57 Minn. 225, 58 N. W. 878; *People v. Imes*, 110 Mich. 250, 68 N. W. 157; *Comm. v. Sparks*, 7 Allen 534) and as to bigamy (*People v. Quanstrom*, 93 Mich. 254, 53 N. W. 165, 17 L. R. A. 723; *Hiler v. People*, 156 Ill. 511, 41 N. E. 181, 47 Am. St. Rep. 221). In *Compton v. State*, *supra*, the Texas court overruled two earlier Texas cases (*Morrill v. State*, 5 Tex. Ct. App. 447 and *Roland v. State*, 9 Tex. Ct. App. 277) which had held that adultery was a crime against a spouse so as to make such spouse a competent witness under a like statute. In *Basset v. United States*, 137 U. S. 496, it was held that a wife could not testify against her husband who was prosecuted for polygamy. In *State v. Woodrow*, 58 W. Va. 527, 52 S. E. 545, 2 L. R. A. N. S. 862, defendant shot at his wife, wounding her and killing her child which she held in her arms; his conviction for murdering the child was reversed because of the admission of the wife's testimony, the court holding that the killing of the child was not a crime against the

wife, but admitting, of course, that the wife could properly have testified on the trial of the husband for wounding the wife. Bigamy was held to be such a crime against the wife as to permit her to testify against her husband in *Hill v. State*, 61 Neb. 589, 57 L. R. A. 155, 85 N. W. 836, but the weight of authority seems clearly opposed to the Iowa court in its view that cases of this nature are within the exceptions to the general rule that one spouse cannot testify against the other.

HUSBAND AND WIFE—INSURANCE FROM AN ESTATE BY ENTIRETIES.—Husband and wife were possessed, as tenants in entirety, of a leasehold property upon which an insured house had burned down. The wife brought a bill in equity for a decree that the insurance money, deposited in their names jointly might be used to rebuild the house. *Held*, that the proceeds of insurance from an estate by entireties was not subject to the control of the husband but was held by entireties and should be laid out in rebuilding, if feasible, *Masterman v. Masterman* (Md. 1916), 98 Atl. 537.

Some courts do not recognize tenancies by entireties in personalty. *Abshire v. State*, 53 Ind. 66; *Fogleman v. Shively*, 4 Ind. App. 197; *Matter of Albrecht*, 136 N. Y. 91. The contrary view is usually taken however. Estates by entireties may be created by the purchase of personalty, usually choses in action, with the wife's money alone or the husband's alone and taken in their joint names; or by a gift or devise of personalty to both; or may arise in money or choses in action coming from parting with real estate held by entireties. At common law the husband would be entitled during his life to the use, control, and the profits of personalty held by entireties. *Sanford v. Sanford*, 45 N. Y. 723. Under the Married Woman's Acts the situation is more puzzling. Some states hold that these Acts have abolished tenancies by entireties, *Donegan v. Donegan*, 103 Ala. 488. Where the bond, promissory note or other personalty is purchased with either the wife's or husband's money alone and title is taken jointly, they are said to hold it by entireties for it is assumed that the party intended a gift of the property in case of survival. *Parry's Estate*, 88 Pa. St. 33; *Fiedler v. Howard*, 99 Wis. 388. Where the husband and wife each furnished part of the purchase price it is generally held that no estate by entireties is created because it is assumed that no gift of the property upon survival was intended. *Johnson v. Johnson*, 173 Mo. 91. In the case of a devise or gift of personalty to the husband and wife, *Phelps v. Simons*, 159 Mass. 415, holds that an estate by entireties is thereby created. Money or securities coming from parting with or selling real estate held by entireties is also held by entireties. *Bramberry's Estate*, 156 Pa. St. 628; *Allen v. Tate*, 58 Miss. 583; *Boland v. McKowen*, 189 Mass. 563. The principal case falls under this subdivision. The fire insurance money was as much part of the proceeds of the property as if the house had been sold, and was not subject to the control of the husband but was still held by entireties, and the house should be rebuilt with it. The proceeds arising from sale of an estate by entireties must be distinguished from the income or rents and profits of such an estate, for they are usually held, under modern statutes, to belong to husband and wife in com-